



General Assembly

February Session, 2008

**Amendment**

LCO No. 3818

**\*SB0053403818SR0\***

Offered by:  
SEN. MCKINNEY, 28<sup>th</sup> Dist.

To: Subst. Senate Bill No. 534

File No. 138

Cal. No. 120

**"AN ACT CONCERNING CASH ADVANCE CONTRACTS AND  
PLAINTIFFS IN PERSONAL INJURY AND WRONGFUL DEATH  
CASES."**

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Section 52-251c of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective from passage*):

5 (a) In any claim or civil action to recover damages resulting from  
6 personal injury, wrongful death or damage to property occurring on or  
7 after October 1, 1987, the attorney and the claimant may provide by  
8 contract, which contract shall comply with all applicable provisions of  
9 the rules of professional conduct governing attorneys adopted by the  
10 judges of the Superior Court, that the fee for the attorney shall be paid  
11 contingent upon, and as a percentage of: (1) Damages awarded and  
12 received by the claimant; or (2) the settlement amount received  
13 pursuant to a settlement agreement.

14 (b) In any such contingency fee agreement such fee shall be the  
15 exclusive method for payment of the attorney by the claimant and  
16 shall not exceed an amount equal to a percentage of the damages  
17 awarded and received by the claimant or of the settlement amount  
18 received by the claimant as follows: (1) Thirty-three and one-third per  
19 cent of the first three hundred thousand dollars; (2) twenty-five per  
20 cent of the next three hundred thousand dollars; (3) twenty per cent of  
21 the next three hundred thousand dollars; (4) fifteen per cent of the next  
22 three hundred thousand dollars; and (5) ten per cent of any amount  
23 which exceeds one million two hundred thousand dollars.

24 [(c) Notwithstanding the provisions of subsection (b) of this section,  
25 a claimant may waive the percentage limitations of said subsection if  
26 the claim or civil action is so substantially complex, unique or different  
27 from other wrongful death, personal injury or property damage claims  
28 or civil actions as to warrant a deviation from such percentage  
29 limitations. Factors that may indicate that a claim or civil action is  
30 substantially complex, unique or different from other wrongful death,  
31 personal injury or property damage claims or civil actions include, but  
32 are not limited to, if the claim or civil action (1) involves complex  
33 factual medical or legal issues, (2) involves serious permanent personal  
34 injury or death, (3) is likely to require extensive investigation and  
35 discovery proceedings, including multiple depositions, or (4) requires  
36 independent expert witness testimony. For the purposes of this  
37 subsection, "independent expert witness testimony" means testimony,  
38 whether at trial or in a deposition, from an expert who has not  
39 participated in the care of the claimant and has not participated in any  
40 official investigation of the incident involved.

41 (d) Prior to a claimant entering into a contingency fee agreement  
42 that provides for a fee that exceeds the percentage limitations of  
43 subsection (b) of this section, the attorney shall (1) explain the  
44 percentage limitations of subsection (b) of this section to the claimant  
45 and the reasons the attorney is unable to abide by those limitations; (2)  
46 advise the claimant of the claimant's right to seek representation by  
47 another attorney willing to abide by the percentage limitations of

48 subsection (b) of this section; and (3) allow the claimant a sufficient  
49 period of time to review the proposed contingency fee agreement and,  
50 if the claimant wishes, seek representation by another attorney prior to  
51 entering into such agreement.

52 (e) No waiver of the percentage limitations of subsection (b) of this  
53 section shall be valid unless the contingency fee agreement (1) is in  
54 writing, (2) sets forth in full the fee schedule of subsection (b) of this  
55 section, (3) contains a conspicuous statement, printed in boldface type  
56 at least twelve points in size, in substantially the following form: "I  
57 UNDERSTAND THAT THE FEE SCHEDULE SET FORTH IN  
58 SECTION 52-251c OF THE CONNECTICUT GENERAL STATUTES  
59 LIMITS THE AMOUNT OF ATTORNEY'S FEES PAYABLE BY A  
60 CLAIMANT AND THAT THE STATUTE WAS INTENDED TO  
61 INCREASE THE PORTION OF THE JUDGMENT OR SETTLEMENT  
62 THAT WAS ACTUALLY RECEIVED BY A CLAIMANT.  
63 NOTWITHSTANDING THAT THE LEGISLATIVE INTENT IN  
64 ENACTING THAT FEE SCHEDULE WAS TO CONFER A BENEFIT  
65 ON A CLAIMANT LIKE MYSELF, I KNOWINGLY AND  
66 VOLUNTARILY WAIVE THAT FEE SCHEDULE IN THIS CLAIM OR  
67 CIVIL ACTION.", and (4) is signed and acknowledged by the claimant  
68 before a notary public or other person authorized to take  
69 acknowledgments.

70 (f) If a claimant waives the percentage limitations of subsection (b)  
71 of this section pursuant to this section, in no event shall (1) the total fee  
72 under the contingency fee agreement exceed thirty-three and one-third  
73 per cent of the damages awarded and received by the claimant or of  
74 the settlement amount received by the claimant, and (2) the claimant  
75 be required to repay any costs that the attorney incurred in  
76 investigating and prosecuting the claim or civil action if there is no  
77 recovery.

78 (g) No fee shall be payable to any attorney who seeks a fee that  
79 exceeds the percentage limitations of subsection (b) of this section  
80 unless the claimant has waived such limitations pursuant to this

81 section and the contingency fee agreement complies with the  
82 requirements of subsection (e) of this section.]

83 [(h)] (c) For the purposes of this section, "damages awarded and  
84 received" means in a civil action in which final judgment is entered,  
85 that amount of the judgment or amended judgment entered by the  
86 court that is received by the claimant; "settlement amount received"  
87 means in a claim or civil action in which no final judgment is entered,  
88 the amount received by the claimant pursuant to a settlement  
89 agreement; and "fee" shall not include disbursements or costs incurred  
90 in connection with the prosecution or settlement of the claim or civil  
91 action, other than ordinary office overhead and expense."